

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

MARTHA MUNIZ,

Plaintiff,

v.

THE UNIVERSITY OF TEXAS–PAN
AMERICAN,

Defendant.

§
§
§
§
§
§
§
§
§

CASE NO. _____

NOTICE OF REMOVAL

NOW COME Defendant The University of Texas–Pan American (“UTPA”) and respectfully shows that:

1. **Removal Provision:** This removal is pursuant to 28 U.S.C. §1441(a). In her Original Petition, Plaintiff alleges violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (“Title VII”); 42 U.S.C. §§ 1981 and 1983 (“Sections 1981 and 1983”); the Equal Pay Act; and the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the “FLSA”).
2. **State Action:** This action was filed in the 275th Judicial District Court of Hidalgo County, Texas, on February 19, 2010, Cause No. C-517-10-E. Plaintiff is Martha Muniz, a former employee of Defendant UTPA. Venue is proper in the United States District Court for the Southern District of Texas, McAllen Division.

3. **Nature of the Lawsuit:** Plaintiff alleges that, during the course of her employment with UTPA, she was discriminated against on the basis of her national origin and gender and was retaliated against in violation of Title VII, Sections 1981 and 1983, the Equal Pay Act, and the FLSA, as well as the Texas Labor Code.
4. **Jury Demand:** Plaintiff has requested a trial by jury in her Original Petition.
5. **Removal Requirements of 28 U.S.C. §1441:** Plaintiff's allegations regarding violation of Title VII, Sections 1981 and 1983, the Equal Pay Act, and the FLSA raise federal questions. *See also* 42 U.S.C. §2000e-5(f)(3) ("Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter."); 29 U.S.C. § 216(b) ("An action ... may be maintained ... in any Federal or State court of competent jurisdiction").
7. **Compliance with Deadline:** Defendant UTPA received notice of the suit on or about March 16, 2010. UTPA has 30 days in which to remove. Therefore, this removal is timely.
8. **State Court Pleadings:** A true and correct copy of all process and pleadings served upon Defendant UTPA in the state court action is being filed with this notice as required by 28 U.S.C. §1446(a).

ACCORDINGLY, Defendant UTPA prays that this cause be removed to the United States District Court Southern District of Texas, McAllen Division, pursuant to Section 1441 of Title 28 of the United States Code.

Dated: April 14, 2010

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/s/ Darren G. Gibson
DARREN G. GIBSON
Attorney-In-Charge
Texas Bar No. 24068846
Southern District No. 1041236
Darren.Gibson@oag.state.tx.us
Assistant Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 463-2120
(512) 320-0667 FAX

***ATTORNEYS FOR DEFENDANT THE
UNIVERSITY OF TEXAS-PAN
AMERICAN***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent *via U.S. certified mail, return receipt requested*, on April 14, 2010, to:

David R. Joe, Esq.
Anthony & Middlebrook, P.C.
1702 E. Tyler Street, Suite 1
Harlingen, Texas 78550
Attorney for Plaintiff

/s/ Darren G. Gibson
DARREN G. GIBSON
Assistant Attorney General